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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/830,123

04/22/2004

Daniel E. Regan

CASE 7082

9009

41669 7590 01/04/2007
THE BABCOCK & WILCOX COMPANY
PATENT DEPARTMENT
20 SOUTH VAN BUREN AVENUE
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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT

PAPER NUMBER

3726

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/830,123

Applicant(s)

REGAN, DANIEL E.

Examiner

Marc Jimenez

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3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6 and 10-18 is/are rejected.
- 7) ☒ Claim(s) 3 and 7-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4-22-04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 5-6** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites “the pipe” in line 2 which lacks proper antecedent basis.

Claim 6 recites “the pipe” in line 2 which lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1, 2, 4 and 10-17** are rejected under 35 U.S.C. 102(b) as being anticipated by Haney et al. (US4650236).

Haney et al. teach a housing **10** having an outer plate **90** and an inner plate **92** pivotally

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mounted **85** inside the outer plate **90**, a means for moving (abstract, lines 9-10) the outer plate **90** relative to the inner plate **92**, and a grip **56,54** movably extended from the housing **10**, the grip **56,54** moving from an open position for receiving the tube **30** to a closed position.

Regarding claim 2, there is a means for returning the grip to the open position (when the clamp releases the tube **30**).

Regarding claim 4, in as much structure claimed, the grip **54,56** is considered a “pipe” having a top end connected to the housing (the contact face between **56** and **42** in figure 2 is considered the top) and a bottom end which separates for receiving the tube (see the face of **54,56** at lead line **34** in figure 2).

Regarding claim 10, note that hydraulic actuators **281** could be used.

Regarding claim 11, note the handle **80**.

Regarding claim 12, the outer plate **90** includes a base **94**, exterior side walls **62**, and an interior wall **41** extended from at least one of the exterior walls **62**, the interior wall **41** connected to the grip **54**.

Regarding claim 13, the inner plate **92** includes a base **94** and exterior side walls **42**, the grip **56** being connected to at least one of the exterior side walls **42** of the inner plate **92**.

Regarding claim 14, the exterior side walls of the outer plate **62** and the exterior side walls of the inner plate **42** overlap (see figure 1).

Regarding claim 15, the exterior side walls of the outer plate **62** and the exterior side walls of the inner plate **42** have “approximately” the same width.

Regarding claims 16-17, note that the Haney et al. reference could read on the claimed invention as follows: In figure 3, the outer plate could be considered the combination of elements

labeled **41,43,92** and the inner plate could be considered the combination of elements labeled **92,42,44,90**. Therefore, as shown in figure 3, the outer and inner plates have a u-shape. The outer plate and inner plate also have the same height.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 18** rejected under 35 U.S.C. 103(a) as being unpatentable over Haney et al.

Haney et al. teach the invention cited above with the exception of specifically disclosing that the plates are formed of carbon steel.

However, official notice is taken that it was well known to a person of ordinary skill in the art, at the time of the invention, to have provided the invention of Haney et al. with carbon steel as the plate material, in order to provide a high strength and durable material.

Allowable Subject Matter

7. Claims 19-20 are allowed.

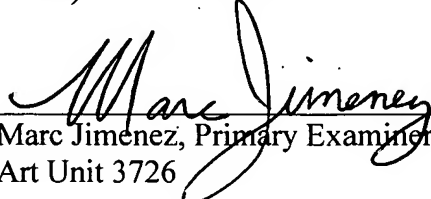
8. Claims 3 and 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is (571) 272-4530. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Marc Jimenez, Primary Examiner
Art Unit 3726

MJ
12-18-06